



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

April 11, 1947

Hon. W. H. Crunk
County Attorney
Delta County
Cooper, Texas

Opinion No. V-139

Re: Approval of School Bus
Driver Bond by County
School Board where
School District is re-
ceiving State aid un-
der Article V, Acts
1945, 49th Leg., R.S.,
Senate Bill 167.

Dear Sir:

We refer to your letter of recent date acknowledged by the Attorney General on February 19, 1947, wherein you requested an opinion on the question and facts submitted therein, in substance, as follows:

The Board of Trustees of the Enloe Independent School District of Delta County under provisions of Article 2687a, V.C.S., has authorized the drivers of their school busses to execute bond in the amount of \$3,000.00 with personal sureties rather than corporate sureties. The County School Board has advised the District that it may authorize the making of personal surety bonds provided the same shall be submitted to the County Board and approved by it.

Under provisions of Article V, Transportation Aid, Acts 1945, 49th Legislature, R.S., Senate Bill 167, school districts qualifying thereunder are entitled to State transportation aid to be disbursed by the County Board and to be paid out of the County Board Transportation Fund designated in the Act. The Enloe Independent School District is entitled to and is receiving State aid out of this Fund. The School District, however, refuses to recognize any authority in the County School Board to make any requirements affecting its power with refer-

ence to its School Bus Driver Indemnity Bond.

Question: Under the facts submitted, are the statutory bonds required by the Enloe Independent School District, acting under Article 2687a, V.C.S., to be executed by the drivers of its school busses, subject to the approval of the Delta County School Board, where the School District is receiving State aid under provisions of Article V, Acts 1945, 49th Legislature, R.S., Senate Bill 167?

It is our understanding in view of the above submitted facts that the Enloe Independent School District, acting under the provisions of Article 2687a, is providing for the transportation of pupils of and within the confines of the district, contracting for the employment of one or more drivers of its school busses, and is paying the cost of said transportation and salaries of said drivers out of its local school funds and State aid funds to which the district is entitled under Article V, Acts 1945, 49th Legislature, R. S., Senate Bill 167.

We have been advised further, in conference with the Department of Education, that the district in question has two bus drivers, both of whom are under contract with the District Board and both of whom transport pupils of and within the district as well as certain pupils from surrounding districts into the local district. The Enloe District has made application for transportation aid under the provisions of Article V, Senate Bill 167, and is receiving needed aid thereunder. Further, the system of transportation bears the sanction and approval of the County Superintendent, the Delta County School Board and the State Superintendent of Public Instruction, acting under and by virtue of the provisions of Article V, Senate Bill 167; which authorities acting in cooperation with the Enloe District, have devised and approved same as being the most economical transportation system possible. The bus drivers have been authorized to go without the Enloe District for the purpose of transporting certain pupils attending schools within the district by virtue of an employment contract required of all bus drivers by the County Board who operate busses for districts receiving State aid under Article V, Senate Bill 167, and all bus drivers who operate busses authorized to cross district lines. We are advised also that the

County Board has required that all bus drivers under contract to it, as a condition of the contract, conform to the provisions of Article 2687a, which, among other matters, provides for the execution of a bond.

Article 2687a of Vernon's Statutes relates to the intradistrict transportation of pupils. It provides for the making of a contract by the trustees of an independent or common school district for such transportation and prescribes that the drivers shall be required to give bond, payable to the district, for such amount as the Board of Trustees of the district may prescribe, not less than \$2,000.00, and contains other provisions not necessary here to state. *Robinson vs. Draper*, 133 Tex. 280, 127 S. W. (2) 181.

Article V of Acts of 1945, 49th Legislature, R.S., Senate Bill 167, relates to the interdistrict as well as the intradistrict transportation of pupils. It provides that the County School Board and County Superintendent, subject to the approval of the State Superintendent of Public Instruction, may set up the most efficient system of transportation possible for the purpose of transporting pupils from their districts and within their districts. It further provides for the making of a contract by the County Board of Trustees for bus drivers for such transportation and the payment of salaries of same out of the County Board Transportation Fund when said bus drivers are employed by the County Board, and that the County Board of Education shall distribute funds in the County Board Transportation Funds equitably to the eligible districts who have properly shown budgetary need for State aid in accordance with the provisions of the Act.

There is no statutory provision in Senate Bill 167 with reference to a bond to be exacted by the County Board in connection with any contract which it might make for the transportation of pupils. When, however, a County School Board, acting under the provisions of Article V, Senate Bill 167, employs bus drivers for interdistrict or intradistrict transportation of pupils in its most economical system of transportation, said Board acting within its sound discretion may require the drivers to execute bonds similar to the statutory bond required under Article 2687a. Such authority naturally carries with it the right to approve such bond.

Article V, Senate Bill 167, contemplates that a school district may continue to set up and operate its own transportation system for pupils within the district under Article 2687a when a district prefers to so operate same exclusively and does not make application for State aid. In such a case the statutory bond required under Article 2687a would not be subject to the approval of the County Board.

On the other hand, Senate Bill 167 clearly purports and is designed to give State transportation aid to those school districts showing need and making application for financial assistance, and in such instances the County Superintendent and County School Board are authorized and directed to set up the most economical system of transportation. In attempting to conform to the provisions of the Act, the County Board has established the policy of allowing the eligible school districts to contract for the employment of their own bus drivers. Since the District Board's jurisdiction is confined to the limits of its district and the bus drivers so employed are to transport pupils both within and without the district, the County Board has deemed it necessary to place said bus drivers under like contract, thus, enabling the bus drivers to perform both interdistrict as well as intradistrict transportation. As a matter of policy also the County Board has required that all such bus drivers shall, as a condition of their employment, conform to the provisions of Article 2687a by executing a bond in accordance therewith, and if approved by the Board, no additional bond is required.

In the present case, the County Board may require a second bond if it is not satisfied with the District bond and if it deems another bond necessary for protection of the children transported. In other words, the County School Board has no authority to approve a bond given by a bus driver to an independent school district if the transportation is limited to students within the district and financed by the district. On the other hand, if the school district is operating the bus for transportation of pupils within and out of the District and is receiving State aid under Senate Bill 167, 49th Legislature, this is a joint operation, and the County School Board has the right to either approve the bond given to the district or to require a separate common law bond.

SUMMARY

When independent school district bus drivers are transporting pupils both from within and out of the school district and receiving State aid under Senate Bill 167, 49th Legislature, the County School Board has the right to approve the school bus drivers bond to the district or it may require a second bond for the protection of the children being transported.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Chester E. Ollison*
Chester E. Ollison
Assistant

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APPROVED APRIL 11, 1947

Price Daniel
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